IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Applicant: Nakano)	Art Unit: 2616
)	
Serial No.: 09/839,000)	Examiner: Fish
)	
Filed: April 21, 2001)	50P4426
)	
For: SYSTEM AND METHOD FOR INTERACTIVE)	January 20, 2006
TELEVISION)	750 B STREET, Suite 3120
)	San Diego, CA 92101
)	
)	

APPEAL BRIEF

Commissioner of Patents and Trademarks

Dear Sir:

This brief is submitted under 35 U.S.C. §134 and is in accordance with 37 C.F.R. Parts 1, 5, 10,

11, and 41, effective September 13, 2004 and published at 69 Fed. Reg. 155 (August 2004). This brief is

further to Appellant's Notice of Appeal filed herewith.

Table of Contents

1106-13 APP

CASE NO.: 50P4426   PATENT
Serial No.: 09/839,000   Filed: April 21, 2001
January 20, 2006
Page 2

(1)   **Real Party in Interest**

The real party in interest is Sony Corp. and Sony Electronics, Inc.

(2)   **Related Appeals/Interferences**

Appeals have been filed in serial nos. 09/834,511, 09/840,327, and 09/840,437 that may tangentially

be related to this appeal.

(3)   **Status of Claims**

Claims 1 and 3-22 are pending and finally rejected, which rejections are appealed.   Claim 2 is

canceled.

(4)   **Status of Amendments**

No amendments are outstanding.

(5)   **Summary of Claimed Subject Matter**

As an initial matter, it is noted that according to the Patent Office, the concise explanations under this

section are for Board convenience, and do not supersede what the claims actually state, 69 Fed. Reg. 155

(August 2004), see page 49976. Accordingly, nothing in this Section should be construed as an estoppel that

limits the actual claim language.

Claim 1 sets forth an interactive television (ITV) that has a housing (34, figure 2; page 7, line 9),

a television tuner (36, figure 2; page 7, line 10) in the housing, and a microprocessor (46, figure 2; page 8,

1168-13.APP

line 4) associated with the tuner. A user input device (30, figure 1; page 6, line 11) communicates with the microprocessor. Also, a memory system (44, figure 2; page 8, line 1) communicates with the microprocessor, and the memory system stores user data and virtual channels. The user data is based on signals received from the user input device. A computer communication device (48, figure 2; page 8, line 16) is connected to the microprocessor and to a computer network, and the virtual channels in the memory system are updated in accordance with data received from the communication device. The virtual channels are established based on the user data, and in the event of an update, only updated portions of a Web page corresponding to the virtual channel are downloaded.

Claim 7 recite an ITV with a housing, a television tuner in the housing, a microprocessor, and a user input device communicating with the microprocessor, supra. A memory system, supra, communicates with the microprocessor and stores user data that is based on signals received from the user input device. The memory system further stores virtual channels displayable on the ITV, and the microprocessor accesses the memory system to display a virtual channel in response to user input, with a consumer profile being used to tailor virtual channels.

Claim 15 sets forth an ITV with a housing, a television tuner in the housing, a microprocessor, and a user input device communicating with the microprocessor, supra. A memory system, supra, communicates with the microprocessor and stores virtual channels. A computer communication device, supra, is connected to the microprocessor and to a computer network. The microprocessor, responsive to update information from a Web server associated with a virtual channel in the memory system, determines whether the memory system stores a latest version of the virtual channel and if so causes at least updated portions of a Web page

1169-13.APP

CASE NO.: 50P4426
Serial No.: 09/839,000
January 20, 2006
Page 4

PATENT
Filed: April 21, 2001

associated with the virtual channel automatically to be downloaded, the identity of the virtual channels being established based at least in part on user profile information received from a user.

(6) Grounds of Rejection to be Reviewed on Appeal

(a) Claims 7-12 have been rejected under 35 U.S.C. §102 as being anticipated by Nobakht et al., USPN 6,745,223.

(b) Claims 1, 3, 4, 6, 15-20, and 22 have been rejected under 35 U.S.C. §103 as being unpatentable over Nobakht et al. in view of Greer et al., USPN 5,978,828.

(c) Claims 13 and 14 have been rejected under 35 U.S.C. §103 as being unpatentable over Nobakht et al. in view of Norsworthy et al., USPN 6,144,402.

(7) Argument

(a) Nobakht et al. nowhere teaches tailoring virtual channels to a consumer profile as recited in Claim 7. Instead, user validity is tested for access to a virtual channel table but the table itself, and the channels therein, are not established in accordance with user profiles. The user either has access to a preselected table of virtual channels or he doesn't.

(b) Greer et al. does not download only changed portions of web pages. Instead, it generates an alert when a web changed beyond a threshold, but the entire page is downloaded, col. 3, lines 18-19. There appears to be no suggestion in Greer et al. that only the changed portions of the page be downloaded.

1168-13.APP

CASE NO.: 50P4426
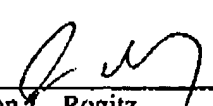Serial No.: 09/839,000
January 20, 2006
Page 5

PATENT
Filed: April 21, 2001

This has been responded to by noting that Greer et al., col. 3, lines 49-57 teach a quotient that represents how much a web page has changed. That is true, but it is used only to determine whether the entire web page is downloaded. It appears to be that the examiner agrees that no partial updates occur, but thinks that *if* a web page is entirely updated, then when the page is downloaded, somehow this reads on the claim.

The ploy is too clever by half. "The name of the game is the claim." Claim 1 requires that *only* the updated portions of the page be downloaded all the time. That never happens in Greer et al. The entire page is *always* downloaded, both updated and non-updated sections. That it might be possible that an entire web page is so modified that there are no non-updated sections is irrelevant; mere possibilities are insufficient to support a rejection.

(c)   The arguments above relating to the underlying independent claims render the dependent claims rejected under this section patentable.

Respectfully submitted,

John L. Rogitz
Registration No. 33,549
Attorney of Record
750 B Street, Suite 3120
San Diego, CA 92101
Telephone: (619) 338-8075

JLR:jg

1168-13-APP

APPENDIX A - APPEALED CLAIMS

1.   An interactive television (ITV), comprising:

a housing;

a television tuner in the housing;

a microprocessor associated with the tuner;

a user input device communicating with the microprocessor;

a memory system communicating with the microprocessor, the memory system storing user

data and virtual channels, the user data being at least partially based on signals received from the user

input device; and

a computer communication device connected to the microprocessor and to a computer

network,

the one virtual channels in the memory system being updated in accordance with data

received from the communication device, the virtual channels being established at least

partially based on the user data, wherein in the event of an update, only updated portions of

a Web page corresponding to the virtual channel are downloaded.

3.   The ITV of Claim 1, wherein the virtual channels are Web pages.

4.   The ITV of Claim 1, wherein the microprocessor is in the housing or in a set-top box

separate from the housing.

5.   The ITV of Claim 4, further comprising a data bus communicating with the microprocessor,

memory system, and TV tuner, the microprocessor correlating channel numbers with virtual channels.

1168-13.APP

6.   The ITV of Claim 1, further comprising an electronic channel guide displayed on the ITV,

the virtual channels being listed by channel number and by name on the electronic channel guide.

7.   An interactive television (ITV), comprising:

a housing;

a television tuner in the housing;

a microprocessor;

a user input device communicating with the microprocessor; and

a memory system communicating with the microprocessor, the memory system storing user

data, the user data being at least partially based on signals received from the user input device,

wherein the memory system further stores virtual channels displayable on the ITV, and the

microprocessor accesses the memory system to display a virtual channel in response to user input,

a consumer profile being used to tailor virtual channels.

8.   The ITV of Claim 7, further comprising a computer communication device connected to the

microprocessor and to a computer network, the virtual channels in the memory system being updated in

accordance with data received from the communication device.

9.   The ITV of Claim 8, wherein the computer communication device is a modem.

10.   The ITV of Claim 9, wherein the virtual channels are Web-based channels.

11.   The ITV of Claim 10, wherein the virtual channels are Web pages.

12.   The ITV of Claim 11, wherein the microprocessor is in the housing or in a set-top box

separate from the housing.

1168-13 APP

13.   The ITV of Claim 12, further comprising a data bus communicating with the microprocessor, memory system, and TV tuner, the microprocessor correlating channel numbers with virtual channels.

14.   The ITV of Claim 13, further comprising an electronic channel guide displayed on the ITV, the virtual channels being listed by channel number and by name on the electronic channel guide.

15.   An interactive television (ITV), comprising:

a housing;

a television tuner in the housing;

a microprocessor;

a user input device communicating with the microprocessor;

a memory system communicating with the microprocessor, the memory system storing virtual channels; and

a computer communication device connected to the microprocessor and to a computer network, wherein the microprocessor, responsive to update information from a Web server associated with at least one virtual channel in the memory system, determines whether the memory system stores a latest version of the virtual channel and if so causes at least updated portions of a Web page associated with the virtual channel automatically to be downloaded, the identity of the virtual channels being established based at least in part on user profile information received from a user.

16.   The ITV of Claim 15, wherein the microprocessor accesses the memory system to display a virtual channel in response to user input.

17.   The ITV of Claim 15, wherein the memory system stores user data, the user data being at least partially based on signals received from the user input device.

1168-13.APP

18.   The ITV of Claim 15, wherein the computer communication device is a modem.

19.   The ITV of Claim 15, wherein the virtual channels are Web-based channels.

20.   The ITV of Claim 19, wherein the virtual channels are Web pages.

21.   The ITV of Claim 15, further comprising a data bus communicating with the microprocessor,

memory system, and TV tuner, the microprocessor correlating channel numbers with virtual channels.

22.   The ITV of Claim 15, further comprising an electronic channel guide displayed on the ITV,

the virtual channels being listed by channel number and by name on the electronic channel guide.

1168-13.APP

CASE NO.: 50P4426   PATENT
Serial No.: 09/839,000   Filed: April 21, 2001
January 20, 2006
Page 10

APPENDIX B - EVIDENCE

None (this sheet made necessary by 69 Fed. Reg. 155 (August 2004), page 49978.)

1168-13.APP

CASE NO.: 50P4426
Serial No.: 09/839,000
January 20, 2006
Page 11

PATENT
Filed: April 21, 2001

APPENDIX C - RELATED PROCEEDINGS

None (this sheet made necessary by 69 Fed. Reg. 155 (August 2004), page 49978.)

1168-13.APP